

§ 518.42

FOIA that do not bear such markings, shall not be assumed to be releasable without examination for the presence of information that requires continued protection and qualifies as exempt from public release.

§ 518.42 Distribution statement.

Information in a technical document that requires a distribution statement pursuant to DoD Directive 5230.24 (reference (m)), shall bear that statement and may be marked FOUO as appropriate.

§ 518.43 Location of markings.

(a) An unclassified document containing FOUO information shall be marked "For Official Use Only" in bold letters at least $\frac{3}{16}$ of an inch high at the bottom on the outside of the front cover (if any), one each page containing FOUO information, and on the outside of the back cover (if any).

(b) Within a classified document, an individual page that contains both FOUO and classified information shall be marked at the top and bottom with the highest security classification of information appearing on the page.

(c) Within a classified document, an individual page that contains FOUO information but no classified information shall be marked "For Official Use Only" at the bottom of the page. The paragraphs containing the "For Official Use Only" information should also be marked with the initials FOUO.

(d) Other records, such as, photographs, films, tapes, or slides, shall be marked "For Official Use Only" or "FOUO" in a manner that ensures that a recipient or viewer is aware of the status of the information therein. Markings on microform will conform to the requirements of paragraphs (b) and (c) of this section. As a minimum, each frame of a microform containing FOUO information will be marked "FOR OFFICIAL USE ONLY" at the bottom center of the appropriate page or frame. Classified or protective markings placed by a software program at both top and bottom of a page or frame of a computer-generated report are acceptable. Storage media (disk packs or magnetic tapes) containing personal information subject to the Privacy Act will be labeled "FOR OF-

32 CFR Ch. V (7-1-02 Edition)

FICIAL USE ONLY-Privacy Act Information."

(e) FOUO material transmitted outside the Department of Defense requires application of an expanded marking to explain the significance of the FOUO marking. This may be accomplished by typing or stamping the following statement on the record prior to transfer: "This document contains information EXEMPT FROM MANDATORY DISCLOSURE under the FOIA. Exemptions * * * apply."

(f) Permanently bound volumes need to be marked only on the outside of the front and back covers, title page, and first and last pages. Volumes stapled by office-type hand or electric staples are not considered permanently bound.

DISSEMINATION AND TRANSMISSION

§ 518.44 Release and transmission procedures.

Until FOUO status is terminated, the release and transmission instructions that follow apply:

(a) FOUO information may be disseminated within DoD Components and between officials of DoD Components and DoD contractors, consultants, and grantees to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized public disclosure. Transmittal documents shall call attention to the presence of FOUO attachments.

(b) DoD holders of FOUO information are authorized to convey such information to officials in other departments and agencies of the executive and judicial branches to fulfill a government function, except to the extent prohibited by the Privacy Act. Records thus transmitted shall be marked "For Official Use Only," and the recipient shall be advised that the information has been exempted from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply.

(c) Release of FOUO information to Members of Congress is governed by DoD Directive 5400.4 (reference (n)). Army implementing instructions are in § 518.52 and in AR 1-20. Release to the GAO is governed by DoD Directive